Supreme Court, U.S.
FILED

No. 00 420 SEP 14 2000

OFFICE OF THE CLERK

IN THE
# Supreme Court of the United States

JACOB SAMPSON,
*Petitioner,*

v.

YELLOW CAB COMPANY, et al,
*Respondents.*

**Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.**

## PETITION FOR A WRIT OF CERTIORARI

Jacob Sampson, *pro se.*
6138 North Clark Street
Chicago, IL. 60660-2410
(773) 761-0766

52 pp

## QUESTIONS PRESENTED FOR REVIEW

1. Whether the United States Court of Appeals for the Seventh Circuit entered a decision in conflict with decisions of other United States Courts of Appeals on the same important matter?

2 Whether the Seventh Circuit abused its discretion in denying petitioner's access to federal courts in conflict with the Constitution of the United States?

3. Whether the Seventh Circuit sanctioned lower court's lack of impartiality on matters of undisputed violations of petitioner's civil and human rights?

4. Whether defense attorneys' malicious persecution of *pro se* petitioner merits reversal?

## PARTIES TO PROCEEDING

1. JACOB SAMPSON, *Petitioner,* representing himself *pro se;* Address: 6138 North Clark Street, Chicago, IL 60660-2410; (773) 761-0766.

2. YELLOW CAB COMPANY, *Respondent,* is a foreign corporation, incorporated in Delaware, which is registered to do business in the State of Illinois and is a subsidiary of a foreign corporation STAMFORD CAPITAL.

3. STAMFORD CAPITAL, *Respondent,* is a Connecticut corporation for jurisdictional purposes the principal place of business, the center of corporate activity and the corporate nerve center in the State of Connecticut controlling activities of its subsidiaries, from where Federal taxes being paid.

4. MICHAEL M. MORDINI, *Respondent,* an attorney, registered in the State of Illinois, represented YELLOW CAB COMPANY in State action. Attorney ALVIN R . BECKER, 161 North Clark Street, Suite 2600, Chicago, IL 60601-3221; (312) 621-9700., represents above respondents without authorization from Stamford Capital. Plaintiff-Petitioner's urgent request whether authorization was given to represent them, was ignored, (Pet. App.29a).

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IN THE
# Supreme Court of the United States

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No.

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JACOB SAMPSON,
*Petitioner,*

*v.*

YELLOW CAB COMPANY, et al.,
*Respondents.*

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**Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit**

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## PETITION FOR A WRIT OF CERTIORARI

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Jacob Sampson ("Sampson") respectfully petitions for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit.

## OPINIONS BELOW

The opinion of the court of appeals is unpublished and is reproduced at page 13a of the appendix to this petition ("Pet App."). The unpublished memorandum opinion and order of the United States District Court for the Northern District of Illinois, Eastern Division granting defendants' motion to dismiss is reproduced at Pet. App. 21a.

## JURISDICTION

The judgment of the court of appeals was rendered on April 26, 2000. The court denied Sampson's petition for rehearing on June 21, 2000.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1).

## CONSTITUTION

Constitutional Amendments 1, 5, 14; Article 4, 2, cl. 1; LSA-C.C. art. 2315 provide:

Access to courts of the United States is a guaranteed constitutional right. CA Colo, *Shaw v. Neece,* 727 F.2d 947; D.C.N.Y. *Spock v. U.S.* 464 F.Supp. 510; C.A.La. *Ryland v. Shapiro,* 708 F.2d 967, has also standing under the Constitution, when personal injury was alleged traceable to defendants' unlawful conduct.(D.C. 1986) *Calumet Industries, Inc. v. Brock,* 807 F.2d 225., which the district court denied and the Seventh Circuit affirmed, Pet. App. 13a.

## STATUTES

28 U.S.C. §1343 provides in relevant part:

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person: (1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42.

42 U.S.C. §1985 provides in relevant part:

If two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws,

42 U.S.C. §1981 provides in relevant part:
All persons witin the jurisdiction of the United States shall have the same right in every State and Territory ... to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property. Section 1981 only redresses discrimination based on plaintiff's race. C.A. 9th Cir. *White v. Washington Public Power Supply System,* 692 F.2d 1286 (1982).

In view of "equal benefit" and "like punishment" clauses, protection of 1870 equal right statute extends beyond right to contract. C.A. 3d Cir. *Mahone v. Waddle,* 564 F.2d 1018.

## STATEMENT OF THE CASE

This case arises from undisputed facts of damage and personal injuries caused by defendants. The State Jury returned a verdict in favor of respondent Yellow Cab Company as a direct result of defense attorney Michael M. Mordini's undisputed suppression of the key evidence. The Illinois Appellate Court upheld the jury verdict and the United States District Court imposed a $500.00 penalty upon the victim Sampson, and the United States Court of Appelas for the Seventh Circuit, affirmed district court's judgment with denying further access to the federal courts, considering Sampson's undisputed and meritorious claims of property damage, permament injuries, concealment of key evidence to obstruct justice and violation of civil and human rights racially motivated, as "frivolous".

Sampson filed a Rule 59(e) motion to alter or amend judgment due to abuse of discretion in denying the obvious and conflict with other circuits, which was denied, and a rule 60 motion for defendants' undisputed fraud upon the courts, was also denied, which the Seventh Circuit affirmed on April 26, 2000. (Pet. App. 13a ). Petition for Rehearing was denied on June 21, 2000. (Pet. App.7a). Strange ruling but a fact.

## REASONS FOR GRANTING THE WRIT

This case presents important issues concerning the concerted efforts of some defense attorneys to victimize the pro se litigant, including the exerting of a malign influence upon the courts to achieve their ends, causing injustice. It is the duty of this Court, in public interest, to hold those responsible for distortions of laws for their own personal gains as shown hereinafter.

I. Seventh Circuit's Constitutional deprivation in clear conflict with CA Colo., *Shaw v. Neece,* 727 F.2d 947 and other (Pet. App. 38a), denying access to federal courts.

Furthermore, mere formal right of access to the courts does not pass constitutional muster, but, rather, access must be adequate, effective and meaningful, and interference with right of access to the courts gives rise to claim for relief under 1871 civil right statute. 42 U.S.C.A. §1983. C.A. 5th Cir. *Ryland v. Shapiro,* 708 F.2d 967.

Petitioner Sampson contends that Seventh Circuit's April 26, 2000, order, denying justice and access to the federal court, to be consistent with ruling on numerous discriminatory previous- civil rights violations like the forcible entry into Sampson's home and theft of his United States patents, case number 89-1718; Two false imprisonments, case number 96-1280; Criminal damage to property and personal injuries, case number 96-3131, and present action, case number 99-2883 with glaring injustice.

The above pattern of discriminatory denial of justice by the Seventh Circuit raises the question: Since the reason why Sampson was persecuted in Nazi Germany was known. Why is he persecuted in the United States?

II. Under rules of evidence, where defendants' failure to produce relevant evidence within its control gives rise to inference that evidence is unfavorable to defendant. D.C.Cal. *Caroline Power v. Uranex,* 451 F.Supp. 1044., and an attorney's suppression of physical or real evidence constitutes a fraud sufficient to justify disciplinary action against the attorney, *In Re Ryder,* 263 F.Supp. 360. The Seventh Circuit is equally in conflict on the matter of deliberately concealed evidence to obstruct justice committed by defendants, thus displaying glaring lack of impartiality, and in conflict with its own, *Richmond v. St.Joseph Care Center West,* 190 F.3d 500 (7th Cir. 1999).

## III. DISTRICT COURT'S ATTEMPT TO OBSTRUCT APPEAL

In addition to denial of all plaintiff's substantiated and meritorious claims, District Judge Robert W. Gettleman went overboard in penaliizing Sampson with $500.00, and his attempt to obstruct the appeal by entering conflicting "final appealable orders" (Pet. App. 40a & 41a) to prevent the sought justice, it characterizes an attitude of extrajudicial origin, derived non coram judice. 28 U.S.C.A. §144. *Wolfson v. Palmieri,* 396 F.2d 121.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

6138 North Clark Street
Chicago, IL 60660-2410
(773) 761-0766

Jacob Sampson, Petitioner
*pro se.*

# APPENDICES

**APPENDIX A**

UNITED STATES COURT OF APPEALS
For The Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604

Gino J. Agnello
Clerk
312-435-5850

8/7/00

Re: 99-2883

Dear Sir or Madam,

I am returning this document to you unfiled.
The court denied your motion to recall the mandate on 7/14/00.
Your closed appeal remains closed and no further submission can be made in this appeal number.
Further submission in this appeal will not be returned to you again at government expense.

Sincerely,

Pro Se Clerk

**APPENDIX B**

[Filed Aug. 7, 2000]

No. 99-2883

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

| | |
|---|---|
| JACOB SAMPSON,<br>Plaintiff-Appellant,<br><br>v.<br><br>YELLOW CAB COMPANY,<br>MICHAEL M. MORDINI<br>and STAMFORD CAPITAL,<br>Defendants-Appellees. | Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.<br>No. 99 C 180<br><br>The Honorable<br>Robert W. Gettleman<br>Judge Presiding. |

**MOTION FOR RECONSIDERATION**

Plaintiff-Appellant Jacob Sampson *pro se,* pursuant to F.R.A.P. Rule 27, respectfully moves this Honorable Court for Reconsideration of its Order, entered on April 26, 2000, and in support hereof, states as follows:

1. That plaintiff-appellant Jacob Sampson ("Sampson") is about to file his Petition for Certiorari in the United States Supreme Court, proving the consistent denial of relief to Sampson's meritorious claims as a result of some defense attorneys' malign influence upon the Courts, in particular in the instant case.

2. This Court's order entered on April 26, 2000, affirmed district court's bias and hostile opinion that Sampson filed

"frivolous" claims and imposed a penalty of $500.00 and this Court followed with a denial of access to federal courts, in violation of the United States Constitution.

3. It may appear as a contradiction to term Sampson's appeals as "frivolous" while a viable and major appeal is pending in this Court, on major issues of National interests and International Relations, case *Sampson v. Federal Republic of Germany*, No. 97-3555.

WHEREFORE, appellant Sampson prays that this Honorable Court will reconsider its April 26, 2000, order, and reverse the order in public interest.

Respectfully submitted,

6138 N. Clark St.
Chicago, IL 60660-2410
(773) 761-0766

s/ _____
Jacob Sampson, Plaintiff-Appellant, *pro se*.

**APPENDIX C**

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

Date: July 14, 2000

By the Court:

No. 99-2883

JACOB SAMPSON,
Plaintiff-Appellant

v.

YELLOW CAB COMPANY, MICHAEL M. MORDINI and STAMFORD CAPITAL,
Defendants - Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division No. 99 C 180, Robert W. Gettleman, Judge

Upon consideration of the **MOTION FOR STAY OF MANDATE,** which the court construes as a motion to recall the mandate issued on June 22, 2000, filed on June 27, 2000, by the pro se appellant,

**IT IS ORDERED** that the motion is **DENIED.**

(1031 - 112195)

**APPENDIX D**

[Filed June 27, 2000]

No. 99-2883

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

JACOB SAMPSON,
Plaintiff-Appellant,

v.

YELLOW CAB COMPANY,
MICHAEL M. MORDINI
and STAMFORD CAPITAL,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 99 C 180

The Honorable
Robert W. Gettleman
Judge Presiding.

**MOTION FOR STAY OF MANDATE**

Plaintiff-Appellant Jacob Sampson *pro se*, pursuant to Circuit Rule 41, moves this Honorable Court for Stay of Mandate, and in support hereof, states as follows:

1. Appellant Sampson certifies that a Petition for Certiorari to the Supreme Court of the United States is being filed and is not for delay.

2. That the United States Court of Appeals for the Seventh Coircuit has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter and deviated from provisions of the United States Constitution and sanctioned such a departure by a lower court, as to call for an exercise of the Supreme Court's supervisory power.

WHEREFORE, plaintiff-appellant prays this Court as above.

Respectfully submitted,

6138 N. Clark St.
Chicago, IL 60660-2410
(773) 761-0766

s/_____
Jacob Sampson, plaintiff-appellant, *pro se*.

## APPENDIX E

UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

June 21, 2000

**Before**

Hon. JOHN L. COFFEY, *Circuit Judge*
Hon. JOEL M. FLAUM, *Circuit Judge*
Hon. MICHAEL S. KANNE, *Circuit Judge*

JACOB SAMPSON,
*Plaintiff-Appellant,*
No. 99-2883

v.

YELLOW CAB CO., et al.,
*Defendants-Appellees.*

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 99 C 180
Robert W. Gettleman,
*Judge.*

**ORDER**

On consideration of the petition for rehearing filed in the above-entitled cause, all of the judges on the original panel have voted to deny a rehearing. Accordingly,

IT IS ORDERED that the aforesaid petition for rehearing be, and the same is hereby DENIED.

**APPENDIX C**

[Filed June 16, 2000]

No. 99-2883
IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

| | |
|---|---|
| JACOB SAMPSON,<br>Plaintiff-Appellant,<br><br>v.<br><br>YELLOW CAB COMPANY<br>MICHAEL M. MORDINI<br>and STAMFORD CAPITAL, | Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.<br>No. 99 C 180<br>The Honorable<br>Robert W. Gettleman<br>Judge Presiding. |

**PETITION FOR REHEARING**

Plaintiff-Appellant Jacob Sampson *pro se,* pursuant to May 16, 2000, leave of Court, files his Petition for Rehearing and asserts as follows:

**STATEMENT OF FACTS**

On January 8, 1995 at approximately 7:00 p.m. a taxicab owned by Yellow Cab Company demolished plaintiff's automobile (Pet. App.30a) and caused permanent injuries (Pet. App. 31a). The State Jury returned a verdict in favor of Yellow Cab Company as direct result of defense attorney Michael M. Mordini's suppression of the key evidence (Pet. App. 30a & 31a)).

The Appellate Court of Illinois upheld the jury verdict and the United States Court of Appeals, Seventh Circuit in its April 26, 2000, Order, affirmed, with denying further access to the federal courts, considering plaintiff's proven damages, undisputed personal injuries, concealed key evidence and violations of his civil and human rights claims as "frivolous".

## ARGUMENT

**THE SEVENTH CIRCUIT ENTERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER UNITED STATES COURT OF APPEALS ON THE SAME IMPORTANT MATTER, HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH THE CONSTITUTION OF THE UNITED STATES, AND SANCTIONED SUCH A DEPARTURE BY A LOWER COURT.**

### (a) CONSTITUTIONAL VIOLATION

On April 26, 2000, this Court entered an order denying access to federal courts contrary to provisions in *Shaw v. Neece,* 727 F.2d 947, stating: Access to courts of the United States is a guaranteed constitutional right. Furthermore, mere formal right of access to the courts does not pass constitutional muster, but, rather, access must be adequate, effective and meaningful, and interference with right of access to the courts gives rise to claim for relief under 1871 civil right statute. 42 U.S.C.A. § 1983; Const.Amends. 1, 5, 14; Art.4, 2, cl. 1; LSA-C.C. art 2315. *Ryland v. Shapiro,* 708 F.2d 967.

Pursuant to the above April 26 order, justice and access to the federal court was denied, and the denied justice to be found consistent with numerous discriminatory previous civil rights violations, nemely: Forcible entry and theft of plaintiff's United States Patents, 89-1718; False arrests, 96-1280; Criminal damage to property and personal injuries, 96-3131, and more. Why?

### (b) UNFAIRLY ADJUDICATED IN STATE COURT

On page 3 of the above Order the District Court gives

state court judgments the same full faith and credit they would have in state court. *Richmond v. St. Josph Care Ctr. West,* 190 F.3d 500, though the state court unfairly adjudicated the undisputed concealment of documents, which is a corrupt means of influencing, obstructing or impeding administration of justice, and thus, obstruction of justice statute proscribes concealment of documents. 18 U.S.C.A. § 1503; *U.S. v. Rasheed,* 663 F.2d 843, thereby in clear conflict with *Richmond supra.*

(c) **RES JUDICATA MISAPPLIED**

On page 3 of the above order the Distrct court stated: To decide if res judicata bars Sampson's federal claims we must determine the preclusive effect Illinois courts would give the prior judgment. Under Illinois law res judicata applies if "(1) a final judment on the merits has been entered in the first lawsuit by a court of competent jurisdiction;"

Failure of defendant to produce relevant evidence (Pet. App. 30a & 31a) within its control gives rise to inference that is unfavorable to defendant. *Caroline Power & Light Co. v. Uranex,* 451 F.Supp. 1044.

An attorney's suppression of physical or real evidence connstitutes a fraud sufficient to justify disciplinary action against the attorney, *In Re Ryder,* 263 F.Supp. 360. There could not be a final judgment on the merits without the key evidence suppressed by attorney Mordini, thus res judicata does not apply.

Where a verdict is manifestly against weight of the evidence (Pet. App. 30a & 31a) trial judge must set aside and grant a new trial, and if he fails to do so, his failure constitutes error for which the judgment must be reversed. *Bishop v. Nikolas,* 51 N.E.2d 828, 320 Ill.App. 681.

Next, Sampson argues that the district court erred in denying his motion to enter a default judgment against

Stamford Capital, and contends that because Stamford Capital did not authorize counsel's representation, the acts of counsel are a nullity as against the party for whom the appearance was entered. *Gray v. First National Bank of Chicago,* 57 N.E.2d 363. The requested authorization counsel and Stamford Capital refused to produce, and there have not been any forthcoming. (Pet. App. 29a)

On the present state of the record, the District Court erred by dismissing the complaint on statute of res judicata and abuse of discretion.

## (d) ABUSE OF DISCRETION

Last, Sampson argues that the district court abused its discretion in denying Rule 59(e) and Rule 60(b) motions because "legal arguments in good faith can never be frivolous". This Court reviewed the denial of motions under both rules for an abuse of discretion. *Central States, Southeast and Southwest Areas Pension Fund v. Hunt Truck Lines, Inc.* 204 F.3d 736; *Cincinnati Ins. Co. v. Flanders Elec. Motor Serv., Inc.* 131 F.3d 625. The proposed second amended complaint stated a claim under the federal civil rights act and res judicata did not bar the claims, because it was not adjudicated on the merits due to concealed evidence.

Decision constitutes "abuse of discretion" when it is not just clearly incorrect, but downright unreasonable. *Cincinnati, supra.*

## CONCLUSION

For the reasons stated, the judgment of the District Court should be reversed.

Respectfully submitted,

6138 N. Clark St.
Chicago, IL 60660-2410
(773) 761-0766

s/ _____
Jacob Sampson, Plaintiff-Appellant, *pro se.*

## APPENDIX G

UNITED STATES COURT OF APPEALS

*For the Seventh Circuit*
*Chicago, Illinois 60604*

May 16, 2000

*By the Court:*

| | |
|---|---|
| JACOB SAMPSON,<br>Plaintiff-Appellant, | Appeal from the United States District Court for the Northern District of |
| No. 99-2883 v. | Illinois, Eastern Division |
| YELLOW CAB COMPANY,<br>MICHAEL M. MORDINI<br>and STAMFORD CAPITAL,<br>Defendants-Appellees. | No. 99 C 180<br><br>Robert W. Gettleman,<br>Judge. |

Upon consideration of the **MOTION FOR EXTENSION OF TIME FOR FILING PETITION FOR REHEARING,** filed on May 10, 2000, by the pro se appellant,

**IT IS ORDERED** that the motion is **GRANTED.** Appellant shall file his petition for rehearing, if any, by June 16, 2000.

## APPENDIX H

UNITED STATES COURT OF APPEALS
SEVENTH CIRCUIT

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Decided April 26, 2000

Before

Hon. JOHN L. COFFEY, *Circuit Judge*
Hon. JOEL M. FLAUM, *Circuit Judge*
Hon. MICHAEL S. KANNE, *Circuit Judge*

JACOB SAMPSON,
*Plaintiff-Appellant,*

v.

YELLOW CAB CO., et al
*Defendants-Appellees.*

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 99 C 180
Robert W. Gettleman, *Judge.*

## ORDER

Jacob Sampson brought suit alleging that Yellow Cab Company (Yellow Cab"), its parent corporation, Stamford Capital, and its attorney, Michael Mordini, conspired to deprive him of his constitutional rights. The district court granted the defendants' motion to dismiss. Sampson appeals, and we affirm.

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* After an examination of the briefs and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the briefs and the record. *See* Fed. R. App. P. 34(a).

I

In January 1995 Sampson's vehicle collided with a Yellow cab. As a result of the accident, Sampson sued in Illinois state court Yellow Cab, Yellow Cab's president and the cab driver for injuries he sustained in the accident and damage to his automobile. Sampson also alleged that Yellow Cab, Yellow Cab's president and its attorney had conspired to obstruct justice by concealing the whereabouts of the cab driver in violation of 42 U.S.C. §1985. The circuit court dismissed the obstruction of justice conspiracy claim. Yellow Cab filed a counterclaim for damage to its vehicle. The parties settled the counterclaim, and a jury returned a verdict for the defendants on Sampson's remaining claims. Sampson appealed renewing his obstruction of justice claim, and contended that Yellow Cab, its president and attorney had withheld photographic evidence, prevented medical records from being admitted into evidence at trial, and filed a false counterclaim. The Illinois Appellate Court affirmed. *Sampson v. Yellow Cab Co.*, No. 1-97-2480, (Hl. App. Ct. Apr. 20,1998).

In 1999 Sampson filed suit in district court based on the defendants' alleged misconduct during the state court action, and cited Federal Rule of Civil Procedure 60(b) as the basis for federal juridiction. The district court sua sponte dismissed, ruling that Rule 60(b) did not confer federal jurisdiction and that Sampson's vague, conclusory allegations failed to state a claim. The district court gave Sampson leave to file an amended complaint, and ordered the defendants to respond to the amended complaint by February 25, 1999. In his amended complaint, Sampson, an Illinois citizen, invoked 28 U.S.C. 1331, 1343 as the basis for federal jurisdiction over his claims against Mordini, also an Illinois citizen, Yellow Cab, and Illinois corporation, and Stamford Capital, a Connecticut corporation. Yellow Cab and Mordini filed a motion to dismiss. On March 1 Sampson moved for a default judgment

against Stamford Capital. The district court denied Sampson's motion and permitted Stamford Capital to join the motion to dismiss. Sampson then sought leave to file a second amended complaint that dropped Mordini from the lawsuit and alleged under 42 U.S.C. § §1981, 1985 and 1986 that Yellow Cab and Stamford Capital had engaged in "a racially motivated conspiracy to interfere with plaintiff's civil rights." The district court took Sampson's motion under advisement and ordered the defendants to address Sampson's second amended complaint in the reply brief supporting their motion to dismiss.In June 1999 the district court granted defendants' motion to dismiss, concluding that Sampson failed to establish federal jurisdiction in his amended complaint. In addition, the district court noted that the proposed second amended complaint failed to state a claim. The district court also found that Sampson's claims were barred by res judicata because he had raised the same ones in state court. Sampson moved to alter or amend the judgment under Federal Rules of Civil Procedure 59(e) and 60(b). The district court denied Sampson's motion and granted the defendants' motion for Federal Rule of Civil Procedure 11 sanctions. The district court ruled that Sampson's "claims in this case were presented for purposes of harassment are not warranted by existing law," and fined him $500.

II.

Sampson argues that the district court erred in dismissing his second amended complaint as barred by res judicata. We review de novo a district court's decision to grant a motion to dismiss. *Hentosh v. Herman M. Finch Univ. of Health Sciences/The Chicago Med. Sch.*, 167 F.3d 1170, 1173 (7th Cir. 1999). Specifically, Sampson contends that his claims are not barred by res judicata because his state court case was not a determination on the merits due to the fact that the

defendants suppressed key evidence. We must give state court judgments the same full faith and credit they would have in state court. *Richmond v. St.Joseph Care Ctr. West,* 190 F.3d 500, 501 (7th Cir. 1999). To decide if res judicata bars Sampson's federal claims we must determine the preclusive effect Illinois courts would give the prior judgment. *Id.* Under Illinois law res judicata applies if "(1) a final judgment on the merits has been entered in the first lawsuit by a court of competent jurisdiction; (2) an identity of causes of action exists; and (3) the parties or their privies are identical in both lawsuits." *DeLuna v. Treister,* 708 N.E.2d 340, 344 (Ill. 1999). Contrary to Sampson's assertion, his state case was a determination on the merits. In fact an Illinois circuit court dismissed Sampson's claim-nearly identical to his federal claims-that Yellow Cab's president and its attorney had conspired to obstruct justice by concealing the whereabouts of the cab driver. Under Illinois law, an involuntary dismissal is a final judgment on the merits. *Id.* at 345-46. Moreover, Sampson appealed the dismissal of the obstruction of justice conspiracy claim, and the Illinois Appellate Court affirmed. Even though Stamford Capital was not a party in the state lawsuit, because it is the parent corporation of Yellow Cab, the entities interests are sufficiently similar to satisfy the same parties element of the test. *Aetna Cas. and Sur. Co. v. Kerr-McGee Chem. Corp.,* 875 F.2d 1252, 1257 (7th Cir. 1989). Thus, the doctrine of res judicata bars Sampson from relitigating his claims.

Next, Sampson argues that the district court erred in denying his motion to enter a default judgment against Stamford Capital. Our view of this denial is limited and deferential. *Dimmitt & Owens Fin., Inc. v. United States,* 787 F.2d 1186, 1193 (7th Cir. 1986). We will find that the district court erred only if it abused its discretion in denying the

motion. *Id.* Sampson asserts, without any supporting evidence, that counsel for Mordini and Yellow Cab represented Stamford Capital without the corporation's authorization. Citing *Gray v. First National Bank of Chicago,* 57 N.E.2d 363, 365-66 (Ill. 1944), Sampson contends that because Stamford Capital did not authorize counsel's representation, "the acts of counsel are a nullity as against the party for whom the appearance was entered," and therefore, the district court should have granted him a default judgment. But Sampson overlooks the rule, clearly stated in *Gray,* that "where an attorney appears of record for a party, the presumption is that his appearance in such a capacity was duly authorized by the person for whom he is appearing." 57 N.E.2d at 365. The presumption may be rebutted if the facts show that the party never gave the authorization. *Id.* at 365-366. Here, Sampson has failed to present any evidence tending to show that Stamford Capital did not authorize its co-defendants' counsel to represent it in this action. Consequently, the district court did not abuse its discretion in denying Sampson's motion for a default judgment.

Last, Sampson argues that the district court abused its discretion in denying his Rule 59(e) and Rule 60(b) motion because "legal arguments made in good faith can never be frivolous." We review the denial of motions under both rules for an abuse of discretion.*Central States, Southeast and Southwest Areas Pension Fund v. Hunt Truck Lines, Inc.,* 204 F.3d 736, 742 (7th Cir. 2000); *Cincinnati Ins. Co. v. Flanders Elec. Motor Serv., Inc.,* 131 F.3d 625, 628 (7th Cir. 1997). Sampson mischaracterizes the district court's reasons for denying his motions. The district court denied his motions, not because they were frivolous, but for the same reasons it granted the defendants' motion to dismiss: the first amended complaint failed to establish federal jurisdiction, the proposed second amended complaint failed to state a claim and res

judicata barred the caims. The district court did not abuse its discretion in denying the Rule 59(e) motion because it had nothing to correct. *Hunt Truck Lines,* 204 F.3d at 743. Likewise, the district court did not abuse its discretion in concluding that relief was not warranted on any of the grounds available in Rule 60(b). *Cincinnati Ins. Co.,* 131 F.3d at 628.

This is yet another frivolous appeal in a long series of frivolous lawsuit and appeals that Sampson has filed. Three years ago, in a separate appeal that also challenged the adverse outcome of Illinois state court proceedings, we advised Sampson that continued frivolous litigation would invited sanctions: "This is ... Sampson's final warning: any further frivolous appeals will subject him to monetary fines and a possible bar order pursuant to *Support Systems International, Inc. v. Mack,* 45 F.3d 185, 186 (7th Cir. 1995), forbidding his filing of any further legal papers in any court within this circuit." *Sampson v. Hansen,* No. 96-1280, 1997 WL 117261, at *1 (7th Cir. Mar. 6, 1997) (unpublished order). Despite being sanctioned by the district court in this case for harassing the defendants by pursuing frivolous claims, Sampson pressed ahead with this clearly meritless appeal. Consequently, we hereby ORDER the clerks of all the federal courts in this circuit to return unfiled any papers submitted either directly or indirectly by or on behalf of Jacob Sampson. *See Support Sys. Int'l v. Mack,* 45 F.3d 185, 188 (7th Cir. 1995). In accordance with our decision in *Mack,* exception to this filing bar are made for criminal cases and applications for writs of habeas corpus. *Id.* at 186-87. Sampson may submit to this court, no earlier than two years from the date of this order, a motion to modify or rescind this order.

AFFIRMED.

## APPENDIX I

[Filed July 22, 1999]

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF ILLINOIS**
**EASTERN DIVISION**

JACOB SAMPSON,
Plaintiff,

No. 99 C 180

v.

Judge Robert W. Gettleman

YELLOW CAB COMPANY
and STAMFORD CAPITAL
Defendants.

## NOTICE OF APPEAL

Plaintiff, JACOB SAMPSON, *pro se,* pursuant to F.R.A.P. Rule 4, appeals to the United States Court of Appeals for the Seventh Circuit, from the United States District Court, Northern District of Illinois, Eastern Division, dismissing plaintiff's cause of action with prejudice. Order entered on June 25, 1999.

In his appeal the plaintiff will ask to reverse and remand the case to the District Court with a decision on the issue whether *res judicata* was improperly applied, contrary to cited authorities and whether parent company's intentional *default* was not given proper judicial consideration.

In short, the record clearly shows that the District Court grossly erred under defense attorney's malign influence in denying relief for the only undisputed reason because plaintiff is Jewish, thus invoking the United States Congress' intervention.

Respectfully submitted,

6138 N. Clark St.
Chicago, IL 60660-2410
(773) 761-0766

s/_____
Jacob Sampson, Plaintiff
*pro se.*

## APPENDIX J

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

---

No. 99 C 180

JACOB SAMPSON,

*Plaintiff,*

v.

YELLOW CAB COMPANY, STAMFORD CAPITAL and MICHAEL M. MORDINI,

*Defendants.*

---

Judge Robert Gettleman

**MEMORANDUM OPINION AND ORDER**

Plaintiff Jacob Sampson has filed a four-count amended complaint, alleging, inter alia, a conspiracy to obstruct justice pursuant to 42 U.S.C. § 1985(2), fraud upon the court, and unspecified state law claims arising out of a January 8, 1985, traffic accident between plaintiff, an Illinois resident, and a taxicab. Before bringing the instant suit, plaintiff sued defendant Yellow Cab and one of its attorneys, Joanna Moscow ("Moscow"), in state court. Defendants Yellow Cab Company ("Yellow Cab") (an Illinois resident), Stamford Capital (a Connecticut corporation), and Yellow Cab's attorney Michael Mordini ("Mordini") (an Illinois resident) have filed a motion to dismiss. Defendants argue that: (1) the

court does not have jurisdiction over plaintiff's suit because the defendants are not diverse and his claims do not involve a federal question; (2) the court does not have jurisdictionn under the Rooker-Feldman doctrine; and (3) even if the court has jurisdiction, res judicata bars plaintiff's claims.

Plaintiff has moved to file a second amended complaint attempting to cure some of the defects defendants noted in their motion to dismiss. In his second amended complaint, plaintiff adds allegations that defendants violated 42 U.S.C. 1981 and 1986, and drops defendant Mordini. The court ordered defendants to respond to the second amended complaint in their reply brief. The court finds that the second amended complaint does not cure the defects in the amended complaint. The court concludes that it does not have jurisdiction over the instant suit, and that even if it had jurisdiction, plaintiff's claims are barred by the doctrine of res judicata.

Defendants argue that jurisdiction cannot be based on diversity of citizenship because plaintiff, defendant Yellow Cab, and defendant Mordini are all Illinois citizens. See Caterpillar Inc. v. Lewis, 519 U.S. 61,68 (1996)("The current general-diversity statute, permitting federal district court jurisdiction over suits for more that $50,000 between ... citizens of different States,' 28U.S.C. §1332(a), thus applies only to cases in which the citizenship of each plaintiff is diverse from the citizenship of each defendant."). Plaintiff argues that this court can assume pendant jurisdiction over Yellow Cab because he dropped Mordini as a defendant in his second amended complaint, and because the citizenship of Yellow Cab's parent corporation, Stamford Capital, is diverse.

In support of his argument, plaintiff cites Campbell v. Triangle Corp., 336 F.Supp. 1002 (E.D. Pa. 1972), in which Judge Lord assumed pendant jurisdiction over the non-diverse

subsidiary of a diverse parent corporation. Plaintiff neglects the fact that Judge Lord reconsidered his decision and allowed the plaintiff to dismiss the non-diverse defendant after the Third Circuit ruled that the doctrine of pendant jurisdiction could not preserve federal jurisdiction in a diversity action if one of the defendants resided in the same state as the plaintiff. See Campbell v. Triangle Corp., 56 F.R.D. 480,481 (E.D. Pa. 1972)(citing Seyler v. Steuben Moltors, Inc., 462 F.2d 181, 181-82 (3d Cir. 1972). The court declines to follow Campbell, a quarter-century-old case from another district whose essential holding has been rejected by courts and commentators alike. See, e.g., J.M. Resources Inc. v. Petro-Pak Resources, Ltd.,581 F.Supp. 629, 630-31 (D. Colo. 1984)(rejecting the notion that the pendant parties doctrine allows a court to take jurisdiction without complete diversity); Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction 2d 3567.2 (1984)("This assault on the rule complete diversity, which the Supreme Court laid down in 1806 for cases under the general diversity statute, has now been authoratively rebuffed."). As the Supreme Court has stated, the history of 28 U.S.C.§1332(a) "clearly demonstrates a congressional mandate that diversity jurisdiction is not be available when any plaintiff is a citizen of the same State as defendant." Owen Equip. & Erection Co. v. Kroger, 437 U.S. 365, 373 (1978). Because plaintiff and Yellow Cab are both Illinois Citizens, diversity of citizenship cannot provide the basis for jurisdiction in the instant case.

Plaintiff also argues that the court has jurisdiction over this action under federal law. Plaintiff alleges violations of 42 U.S.C.§§1981, 1985(2), and 1986, and insists that the court has jurisdiction over these claims under 28 U.S.C. §1331 (conferring upon the district courts "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States") and 28 U.S.C. §1343 (conferring jurisdiction over §1985 claims). Because plaintiff does not

allege that he was subjected to racial discrimination while making a contract or enforcing his contract rights, plaintiff does not state a claim under Section 1981, See Patterson v. McLean Credit Union, 491 U.S. 164, 176 (1989)("Section 1981 cannot be construed as a general proscription of racial discrimination ..., for it expressly prohibits discrimination only in the making and enforcement of contracts.").

Plaintiff likewise does not state a claim under Section 1985. To state a claim under this statute, plaintiff must allege facts evidencing a civil conspiracy, and must allege some sort of racial animus. See Mural v. City of Chicago, 1999 WL 259941, at *3 (N.D. Ill. Apr. 19, 1999). Although in his amended complaint plaintiff alleges "a racially motivated conspiracy," plaintiff does not allege his Section 1985 claim with sufficient particularity. Moreover, plaintiff does not identfy himself as a member of any racial group. See id.

In addition, plaintiff's allegations of conspiracy are wholly conclusory, Under Section 1985(2), plaintiff must allege that two or more persons formed an agreement to inflict injury on him, and this agreement culminated in an overt act that caused him damage. See, e.g., Lenard v. Argento, 699 F.2d 874, 882 (7th Cir. 1983}; Copeland v. Northwestern Mem. Hosp., 964 F.Supp. 1225, 1234 (N.D. Ill. 1997). Although plaintiff vagulely alleges that Yellow Cab and Stamford Capital conspired to "deny relief," he does not identify an overt act that caused him injury. "The allegation that a conspiracy existed is a legal conclusion which is not binding on the Court even when made by a pro se litigant, and this Court may not conjure facts to support such a claim where none are apparent from the allegations." Smith v. Haith, 978 F.2d 1261, 1992 WL 311787, at *4(7th Cir. 1992); see also Tarkowski v.

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Defendants mistakenly refer to §1343 as 28 U.S.C. §1335. The court notes that winning a jury trial does not amount to an overt act.

Robert Bartlett Realty Co., 644 F.2d 1204, 1208 (7th Cir. 1980)("[E]ven a pro se litigant is required to allege something in the way of facts before his allegations of conspiracy may be deemed to state a claim."). The court concludes that because plaintiff does not plead his Section 1985 claim with sufficient particularity, 28 U.S.C. §§1331 and 1343 do not provide the basis for federal jurisdiction.

Even if plaintiff had pled his Section 1985 claim sufficiently, the doctrine of res judicata would mandate dismissal of plaintiff's complaint. In plaintiff's third amended complaint in state court, plaintiff alleged that defendants had engaged in a "conspiracy to obstruct justice displaying racial or otherwise class-based invidiously discriminatory animus" by filing a counterclaim, and alleged that Yellow Cab and its attorney, Moscow, had suppressed evidence by concealing the

---

Defendants argue, in the alternative, that the Rooker-Feldman doctrined deprives this court of jurisdiction. See Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). Rooker-Feldman deprives lower federal courts of jurisdiction to engage in appellate review of state court judgments. See Garry v. Geils, 82 F.3d 1362 (7th Cir. 1996). Although a federal claim that alleges injury caused by a state court decision raises Rooker-Feldman, "a federal claim alleging a prior injury that a state court failed to remedy" raise "a potential res judicata problem but not Rooker-Feldman." Id. at1366-67. In all but the unusual case, Rooker-Feldman applies when the federal plaintiff was the defendant in state court, and res judicata applies when the federal plaintiff was the plaintiff in state court.Id. at 1367. Because the plaintiff in the instant case was the plaintiff in state court, and does not assert "injury at the hands of the court," Homola v. McNamara, 59 F.3d 647, 650 (7th Cir. 1995), Rooker-Feldman does not apply.

whereabouts of the taxicab driver, Justin Cofie ("Cofie"). A jury trial was held and plaintiff lost. Plaintiff appealed, arguing, inter alia, that Yellow Cab had obstructed justice by causing disappearance of Cofie and concealing photographs from the jury. The appellate court affirmed the lower court judgment in an unpublished opinion. Sampson v. Yellow Cab Co., No. 1-97-2480 (Ill. App. Ct. April 20, 1998).

In the instant suit, plaintiff alleges that, in the course of representing Yellow Cab, Mordini suppressed evidence in the form of certain photographs. In the second amended complaint plaintiff seeks to file, he alleges "a racially motivated conpiracy to interfere with [his] civil rights outside of court proceedings," referring specifically to the accident itself and to his allegations that defendants engaged in "criminal obstruction of justice, concealing evidence, [and] concealed whereabouts of the key witness-cab-driver ..."

To decide whether res judicata bars plaintiff's federal claims, this court must determine whether the state court, under state law, "would give the [prior state court] judgment preclusive effect against the claims asserted in the federal action." Pirela v. Village of North Aurora, 935 F.2d 909, 911 (7th cir. 1991). A federal court will consider the federal claim only "if the state would allow for reconsideration of [the] previously decided claim or if the federal plaintiff did not have adequate chance to address the claim during the state action ..." Garry, 82 F.3d at 1367 n.8.

For res judicata to apply under Illinois law, "there must be (1) a final judgment on the merits in an earlier action; (2) an identity of the cause of action in both the earlier and the later suit; and (3) an identity of parties or privies in the two suits." Doe v. Allied-Signal, Inc., 985 F.2d 908, 913 (7th Cir. 1993). Element one is satisfied because the state court jury verdict is a judgment on the merits that must be given preclusive effect, and the state appellate court's affirmance of this verdict likewise amounts to a final judgment on the merits. Element

three is satisfied because the parties in the two suits are esentially identical. Plaintiff's addition of Yellow Cab's parent Stamford Capital (who was not a party to the state court suit) as a defendant in the instant suit appears to be merely a barefaced attempt to create diversity jurisdiction. In addition, although plaintiff sued attorney Moscow in the state court suit and is attempting to sue attorney Mordini in the instant case, Moscow and Mordini belong to the same law firm and both represent Yellow Cab. In any event, plaintiff drops attorney Mordini from the suit in his second amended complaint.

As for element two, whether there is an identity of the causes of action, Illinois courts consider "separate claims ... the same cause of action for purposes of res judicata if they arise from a single group of operative facts, regardless of whether they assert different theories of relief. "River Park, Inc. v. City of Highland Park, 703 N.E.2d 883, 893 (Ill. 1998). The claims plaintiff in both his amended complaint and his second amended complaint arise from the same nucleus of facts as the claims decided by the jury and by the appellate court. The jury found for defendant on the state law claims arising out of the accident and presumably concluded that Yellow Cab had not caused the taxicab driver to disappear. The appellate court affirmed the state court's judgment, rejecting plaintiff;s claims that defendants had concealed evidence or otherwise obstructed justice in the course of the trial. Although in the state court suit plaintiff linked his allegations of invidious discrimination to defendants' counterclaims, while in the instant suit he links his allegations of racial animus both to the accident itself and to defendants' alleged obstructions of justice, plaintiff's claims in the instant suit out of the identical facts (various defendants' conduct during the accident and at trial) as his claims in the state court suit. Thus, even if this court had jurisdiction over the instant suit, plaintiff's claims would be barred by res judicata. The court therefore grants defendants' motion to dismiss.

**ENTER: June 15, 1999**

s/ _____
**Robert W. Gettleman**
**United States District Judge**

**APPENDIX K**

J. Sampson
6138 N. Clark St.
Chicago, IL 60660-2410
(773) 761-0766

April 15, 1999

Mr. Patton Corrigan, President
STAMFORD CAPITAL
1266 E. Main St.
Stamford, CT 06902
Fax: 203-425-2079

**URGENT REQUEST**

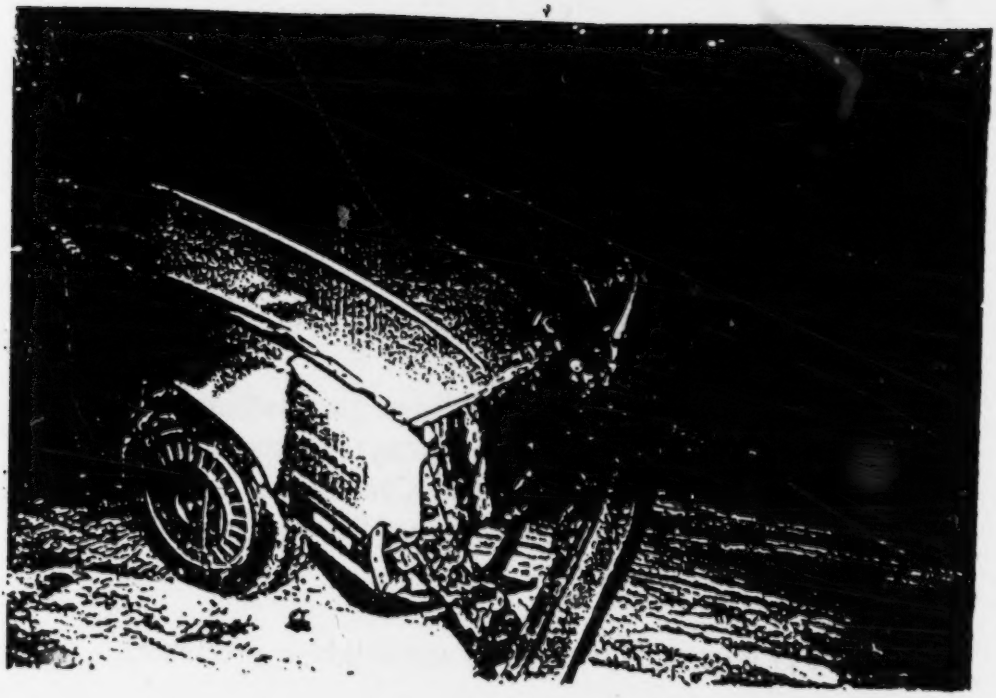
Please confirm or deny, whether you gave authorization to attorney ALVIN R. BECKER in Chicago, to represent you in the law suit Sampson v. Yellow Cab Company, et al. case No. 99 C 180, pending in the United States District Court for the Northen District of Illinois.

Your prompt reply is essential and will be appreciated.

Sincerely,

s/ _____
J. Sampson

# APPENDIX L



**APPENDIX M**

CLINICAL NEUROSCIENCES, S.C.
8 South Michigan Avenue
Suite 1505
Chicago, Illinois 60603-3314
Hilliard E. Slavick, M.D. Telephone (312) 263-2828
Marsha Horvitz, M.D.
Alan K. Summers, M.D. Facsimile (312) 263-2759

February 20, 1995

Dragic Obradovic, M.D.
2800 North Sheridan Road
Suite 500
Chicago, Illinois 60657

Re: Jacob Sampson

Dear Brad:

I had the pleasure of seeing Jacob Sampson on February 15, 1995. He is a seventy-seven year old right-handed white male retired industrial engineer. On January 8, 1995 at 7:00 p.m. he was driving alone in his auto. He was struck in the front driver's side by a cab that he states went through a red light. Jacob was wearing a seat belt at the tme. He was traveling through an intersection at the time of the collision. He struck his left temple on the driver's side door and suffered a ten to fifteen minute loss of consciousness. When he next awoke, an ambulance was at the scene. He awakened with a severe headache, neck pain, and entire left half of the body aching and pain. He was dizzy and saw stars. He has never suffered previous head trauma or loss of consciousness. He has a history of heart disease and undervent angioplasty in 1989 at St. Joe's. He was able to give a police report at the scene. He called friends to pick him up and drive him home.

Two days later he saw you and received an evaluation and was sent for physical therapy which he undertook at two times per week. He denies any associated vertigo but has some trouble walking due to lightheadedness. He uses Tylenol for headaches. He continues to have headaches though they have lessened to some degree. The dizziness and lightheadedness is still present. He also complains of diminished memory since the accident with poor concentration. He is unable to recall much of what he reads. He never suffered from these symptoms previously.

He undervent a CT Scan of the brain on January 16, 1995 which was normal. I viewed these films. He is currently on Procardia and uses Tylenol as needed. His family history is negative. There is a history of tinnitus but he denied any hearing loss though on exam while being interviewed he appeared hard of hearing.

The neurological exam revealed soreness to palpation over the left cervical paraspinal muscles and left supraspinatus muscle. Cranial nerves 2-12 were intact. Optic discs were flat and visual fields were full. Pupils reacted equally. Reflexes were two plus and equal and toe signs were downgoing. No clonus was present. Frontal lobe signs were absent. Motor strenght was intact in all four limbs. No atrophy or fasciculations were seen. Movement and coordination were normal on finger to nose and heel to kneee testing. Speech was normal. Sensory testing was intact to all modalities in all four limbs. Gait and station reveals intact normal gait with good postural stability and a negative Romberg but he is unable to toe, heel or tandem walk because of unsteadiness and a feeling of being lightheaded and off balance. There is slight left cervical spasm though neck range of motion is grossly intact. Straight leg raise test was negative. Blood pressure was 146/82 and pulse 70 per minute normal sinus rhytm. Mental status was normal.

*It is my impression he is statuts* post head trauma with a post-concussion syndrome and labyrinthine concussion along with cephalgia. He has a history of coronary artery disease and appears to mildly hearing impaired.

I would like to obtain the official results of any plain films performed including those of the skull and cervical spine and the official result of his brain CT scan. Please forward these to my attention. I placed him on Meclizine, 12.5 milligrams PO B.I.D., today for the dizziness. He is to return to see me in three to four weeks. I will keep you updated concerning his case. Once again, thank you for the kind referral.

Sincerely,

s/_____

Hilliard E. Slavick, M.D.

## APPENDIX N

[Filed Mar. 30, 1999]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JACOB SAMPSON
Plaintiff,

No. 99 C 180

v.

Judge Robert W. Gettleman

YELLOW CAB COMPANY
and STAMFORD CAPITAL,
Defendants.

**SECOND AMENDED COMPLAINT**

Plaintiff JACOB SAMPSON *pro se,* pursuant to March 16, 1999, leave of Court, files his Second Amended Complaint against the defendants YELLOW CAB COMPANY and STAMFORD CAPITAL, and states as follows:

**COUNT I**

1. Plaintiff JACOB SAMPSON is a citizen and resident of the State of Illinois.

2. Defendant YELLOW CAB COMPANY is a resident of the State of Illinois and is a subsidiary under control of a foreign corporation STAMFORD CAPITAL.

3. Defendant STAMFORD CAPITAL is a Connecticut corporation for diversity purposes the principal business place under 28 U.S.C. §1332(c), the center of corporate activity and

the corporate nerve center in the State of Connecticut.

4. **JURISDICTION** of this action is based on complete diversity, based on Campbell v. Triangle Corp. 336 F.Supp. 1002, where plaintiff with the same citizenship as subsidiary Yellow Cab (Incorporated in Delaware), invokes diversity jurisdiction by suing both the subsidiary and parent (Stamford Capital), whose citizenship is diverse, and invoking supplemental jurisdiction, where there is a common nucleus of operative facts against both defendants in the action to which plaintiff, parent and subsidiary are parties.

5. **FEDERAL PENDENT JURISDICTION** of this action is based on the set of facts which show that defendants violated plaintiff's constitutionally guaranteed equal protection rights, proven, undisputed and actionable under 42 U.S.C. §§1981, 1985(2) (Second Clause) and 1986, where a racially motivated conspiracy to interfere with plaintiff's civil rights **outside of court proceedings, causing property damage, permanent injuries and intentionally obstructing justice,** an essential claim of valid constitutional deprivations, Amendments 5, 14.

6. **UNDISPUTED FACTS.** Defendants legally admitted the following:

(a) That Yellow Cab's employee-agent caused the accident complained of.

(b) That Yellow Cab caused property damage and serious permanent injuries to plaintiff.

(c) That Yellow Cab committed criminal obstruction of justice.

(d) That Yellow Cab conspired with the parent company Stamford Capital, to deny relief.

(e) That defendants' violation of plaintiff's civil rights was intentional, malicious and racially motivated, followed with further attempts to deny relief, in contemptuous defiance of law.

7. Based on Rule 8(d) of the Rules of Civil Procedure: "Avernments in a pleading to which a responsive pleading is required, are admitted when not denied in the responsive pleading."

8. Since injury is taken apart from loss in state court and "inextricably intertwined" with state judgment, *Rooker-Feldman* does not apply. Garry v. Geils, 82 F.3d 1362 (7th Cir. 1996).

9. Plaintiff's injuries stemmed **not** from the state judgment, equally, *res judicata* does not apply, because of the undisputed criminal obstruction of justice, concealed evidence, concealed whereabouts of the key-witness-cab driver, misled State Court was prevented to enter judgment on merits and created a new and different cause of action.

WHEREFORE, plaintiff demands judgment against defendant YELLOW CAB COMPANY in the sum of $500,000. plus costs, and any other relief that this Court deems just and proper.

## COUNT II

10-20. Plaintiff realleges and incorporates by this reference paragraphs 1-9 of Count I of his Complaint as paragraphs 10-20 of Count II.

21. Defendant STAMFORD CAPITAL is a Connecticut corporation, the center of corporate activity and the corporated nerve center in the State of Connecticut, whose business directives being implemented by its numerous subsidiaries, including YELLOW CAB COMPANY.

22. On February 9, 1999, defendant STAMFORD CAPITAL was duly served with the Summons and Complaint, by Registered Mail, the receipt properly signed, (Copy attached hereto).

23. The twenty days allowed by law to file an answer has long passed, clearly indicating their desire not to get involved in the repugnant case, created by their subsidiary Yellow Cab Company.

24. Rule 55(a) of the Rules of Civil Procedure states: "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided be these rules and that fact is made appear by affidavit or otherwise, the clerk shall enter his default."

25. Obstructing implementation of the above rule, attorney ALVIN R. BECKER, in defiance of court order to represent defendant Stamford Capital, interfers with court proceedings and without standing exerts a malign influence upon the Court, to deny relief to plaintiff by any unethical means, consistent with his predecessor attorney Michael M. Mordini's conduct abhorrent to moral notions of the United States. Plaintiff requests to take Judicial notice of the named attorney's impropriety.

WHEREFORE, plaintiff demands judgment against the defendant STAMFORD CAPITAL in the amount of $500,000.00 and any other relief as this Court deems just and proper.

Respectfully submitted,

6138 N. Clark St.
Chicago, IL 60660-2410
(773) 761-0766

s/_____
Jacob Sampson, Plaintiff
*pro se.*

## APPENDIX O

## SEVENTH CIRCUIT DECISIONS IN CONFLICT WITH DECISIONS OF OTHER UNITED STATES COURTS OF APPEALS AND WITH THE CONSTITUTION OF THE UNITED STATES.

1. CONSTITUTION:

The judgment of the court of appeals for the Seventh Circuit was rendered on April 26, 2000, is reproduced at Pet. App. 13a, denying access to United States Federal Courts, in conflict with CA Colo, *Shaw v. Neece,* 727 F.2d 947; D.C.N.Y. *Spock v. U.S.* 464 F.Supp. 510; and C.A.La. *Ryland v. Shapiro,* 708 F.2d 967, where Plaintiff has also standing under the Constitution, when personal injury was alleged traceable to defendants' unlawful conduct to be redressed by requested relief. *Calumet Industries, Inc. v. Brock,* 807 F.2d 225 (D.C. 1986).

2. JURISDICTION:

Seventh Circuit judgment (Pet. App. 13a) affirms District Court's hostile attitude in ignoring violations of plaintiff's Civil Rights under 42 U.S.C. §1981, where no labor dispute was involved, but a brutal racially motivated violation of equal rights statute, extended beyond right to contract, in conflict with the 3d Cir. in *Mahone v. Waddle,* 564 F.2d 1018.

Contrary to Opinion at (Pet. App. 14a), plaintiff invoked jurisdiction also under 42 U.S.C. §1985, alleging that Yellow Cab and Stamford Capital had engaged in a racially motivated conspiracy to interfere with plaintiff's civil rights, namely, negligence in hiring incompetent drivers, causing damage and permanent injuries to plaintiff, concealing evidence (Pet. App. 30a & 31a) and intimidation to obstruct justice, which any court of law will find it actionable and meritorious its claims,

contrary to Seventh Circuit's term "frivolous" and omitting the issue of Section 1985, thus displaying bias and prejudice.

3. RES JUDICATA.

Contrary to Opinion at (Pet. App. 16a) a final judgment on the merits has not been entered in the State Court, because the key evidence was intentionally concealed. In *Kremer v. Chemical Constr. Corp.*, 102 S.Ct. 1883 (1982), the Supreme Court held that the determination of whether to apply res judicata is whether the state proceedings satisfy minimum due process requirements. Obviously, the minimum due process was not satisfied. Adjudication adverse to plaintiff in prior action did not bar plaintiff from litigating in subsequent action assertion that he had been denied due process, therefore, no adjudicatory decree could be entered thereon, *Williams v. Murdoch*, C.A. Pa. 330 F.2d 745.

4. ABUSE OF DISCRETION.

Contrary to Opinion at (Pet. App. 17a) the District Court did abuse its discretion in denying Sampson's motion for a default judgment. Stamford Capital never gave authorization to attorney Alvin R. Becker and refused to respond to Sampson's urgent inquiry, (Pet. App. 29a).

Contrary to Opinion (Pet. App. 17a), Sampson did present evidence tending to show that Stanford Capital did not authorize attorney Alvin R. Becker to represent it in this action, (Pet. App. 29a) Consequently, the district court did abuse its discretion in denying Sampson's motion for default judgment.

Likewise, the district court did abuse its discretion in concluding that relief was not warranted on any of the grounds available in Rule 60(b), which the appellate court also failed to consider the fact that fraud upon the courts was undisputed

UNITED STATES DISTRICT COURT
Northern District of Illinois
Eastern Division

Jacob Sampson

JUDGMENT IN A CIVIL CASE

v.

Case Number: 99 C 180

Yellow Cab Company, et al.

Decision by Court. This action came to hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that judgment is entered in favor of defendants' Yellow Cab Company, et al. and against plaintiff Jacob Sampson, dismissing plaintiff's cause of action with prejudice.

Michael W. Dobbins, Clerk of Court

s/_____
William J. Stasiek, Deputy Clerk

Date: 6/25/1999

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Michel W. Dobbins
CLERK

Office of the Clerk

Jacob Sampson
6138 N. Clark Street
Chicaago, IL 60660-2410

Case Number: 1:99-cv-00180

Title: Sampson v. Yellow Cab Co

Assigned Judge: Honorable Robert W. Gettleman

MINUTE ORDER of 7/22/99 by Hon. Robert W. Gettleman: Plaintiff's motion for extension of time to file notice of appeal is denied [48-1] as unnecessary because the court denied plaintiff's rule 59(b) motion on 07/21/99. Mailed notice.

This docket entry was made by the Clerk on July 23, 1999